IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

Crl.Rev.Pet.No. 869 of 1999()

CRA.210/1994 of ADDL.SESSIONS COURT, KOTTAYAM
CC.178/1988 of CHIEF JUDICIAL MAGISTRATE COURT, KOTTAYAM

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REVN. PETITIONER: APPELLANT/ACCUSED

NOUSHAD, S/O.SAYED MOHAMMED
KALATHIL HOUSE, PERUNNA KIZHAKKU MURI
CHANGANACHERRY VILLAGE, FATHIMAPURAM P.O.

BY ADV. SRI.VIJU ABRAHAM
SRI.VIJU ABRAHAM
SRI.NAVIA SEBASTIAN

RESPONDENTS: RESPONDENT/COMPLAINANT

STATE OF KERALA REPRESENTED BY THE SUB INSPECTOR OF POLICE
CHINGAVANAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.R.P.869/1999

ORDER ON CRL.M.P.NO.3998/1999 IN CRL.R.P.NO.869/1999

DISMISSED

29.3.2007 SD/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

CRL.R.P.No.869 of 1999

Dated this the 29th day of March, 2007

O R D E R

The revision petitioner stands convicted for the offences under Sections 279, 337 and 304(A) IPC and sentenced to undergo simple imprisonment for three months each under Sections 279 and 337 IPC and to undergo simple imprisonment for six months for the offence under Section 304(A) IPC.

2. The prosecution case is that on 10.2.1987, at about 9.00 a.m. the accused drove a taxi car bearing registration No.KLY 8515 with passengers including the deceased along with MC road in a rash and negligent manner so as to endanger human life and as a result of which the vehicle hit on a raised bund on the western side of the road resulting in fatal injury to the deceased who had a spot death.

3. The evidence adduced in the matter consisted of the testimony of Pws' 1 to 12 and Exts. P1 to P7 on the side of the prosecution and DW1 on the side of the accused. The direct

evidence in the matter in support of the prosecution is the version of PW1 one of the passengers who have testified that the vehicle was driven in over speed even at the turning followed by a gradient and the car hit on a bund and overturned. No suggestion is that an express bus was came from the opposite direction through the wrong side and in order to avoid a head on collusion the accused swerved in the vehicle. The same was denied by PW1. It was also proved that there was no mechanical defect to the vehicle.

4. In the circumstances, I find no reasons to interfere in the findings of the court below in exercise of the revisional jurisdiction of the court below. In the circumstances, the conviction is confirmed. The revision petitioner has sought for leniency in the sentence imposed pointing out that the incident has taken place on 10.2.1987 i.e., two decades back. Considering the fact that the accused was facing criminal proceedings so long it appears that it is only proper to modify the sentence. The sentence imposed on the Section 304A is modified to pay a fine of Rs.25,000/- and in default, to undergo

simple imprisonment for six months. The fine amount, if realised, will be paid to the legal representatives of the deceased. No separate sentence is awarded for the rest of the offences.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.R.P.No.372 of 1999

ORDER

26th March, 2007

C.N.RAMACHANDRAN NAIR, J